

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

NATIONAL CREDIT UNION)	CASE NO. 1:13 CV 2500
ADMINISTRATION BOARD,)	
)	MAGISTRATE JUDGE
Plaintiff,)	WILLIAM H. BAUGHMAN, JR.
)	
v.)	
)	
SVETISLAV VUJOVIC, <i>et al.</i> ,)	<u>MEMORANDUM OPINION &</u>
)	<u>ORDER</u>
Defendants.)	

Before me¹ is defendant Svetislav Vujovic's motion² under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend my marginal entry order³ denying his prior motion for relief from default judgment.⁴

In his motion to alter or amend, Vujovic maintains that his prior motion was timely under the prison mailbox rule.⁵ He also contends that the denial was "*sua sponte*" because he did not reply to the opposition to his original motion.⁶

Local Civil Rule 7.1(e) does permit a party to file a reply brief within 14 days of the filing of a brief in opposition, unless the court orders otherwise. Accordingly, the brief

¹The parties have consented to my exercise of jurisdiction. ECF No. 27.

²ECF No. 64.

³ECF No. 63.

⁴ECF No. 61.

⁵ECF No. 64 at 2-3.

⁶*Id.* at 3.

accompanying the present motion is deemed as Vujovic's reply to the original response to the motion to set aside the default judgment.

Despite the fact that Vujovic has established that his motion was timely, the current motion is insufficient to alter or amend the prior order. In particular, the record remains incomplete as to whether Vujovic is entitled to relief from the judgment of default. In particular, Rule 55(c) – which governs relief from the mere *entry* of a default – requires only that the defendant show that the plaintiff will not be prejudiced and that there is a possible defense.⁷ But when, as here, the entry of default has ripened into a default *judgment*, then the “stricter requirements of Rule 60(b)” are involved.⁸

Because these “stricter requirements” have not yet been addressed in any filing, there is currently no basis for altering or amending my prior order⁹ pursuant to Rule 60(b). Nonetheless, in the interests of finally resolving this matter on its merits and not on a point of timeliness, my prior order is stayed until the parties fully brief the question of Vujovic's compliance with Rule 60(b). Vujovic is ordered to submit his brief in support of his motion to alter or amend – focusing on the requirements of Rule 60(b) – by October 15, 2018. NCUAB is to submit any response by October 29, 2018, with Vujovic to file a reply brief by November 16, 2018.

IT IS SO ORDERED.

⁷*United States v. \$22,050.00 U.S. Currency*, 595 F.3d 318, 324-25 (6th Cir. 2010).

⁸*Burrell v. Henderson*, 434 F.3d 826, 832 (6th Cir. 2006).

⁹ECF No. 63.

Dated: September 14, 2018

s/ William H. Baughman, Jr.
United States Magistrate Judge